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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,927	02/06/2004	Richard Maddocks	090455-9577	7395
48036	7590	10/20/2006	EXAMINER	
PERRY HOFFMAN & ASSOCIATES P.C. PO BOX 1649 DEERFIELD, IL 60015			CEGIELNIK, URSZULA M	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/773,927

Applicant(s)

MADDOCKS ET AL.

Examiner

Urszula M. Cegielnik

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-16, 18, 19 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 and 14-16 is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-11, 18, and 21-23 is/are rejected.
- 7) ☒ Claim(s) 4-7 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 recites the limitation "the flexible body cover" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 3, 8, 18, 21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Getgey et al. (US Patent No. 4,662,856) in view of Eppley (US Patent No. 6,099,379).

Getgey et al. disclose one or more transparent, spherical members (24) having a convex surface; at least one three-dimensional border member (the eyelid portion of reference part 24) partially surrounding and unitary with the one or more spherical members (24), the three-dimensional border member is an eyelid (the eyelid portion of reference part 24, see Figures 1 and 2, for example); a retaining post (78); a shaped

member extending from the three-dimensional border member; and a plush-engaging member (36) integral with the one or more spherical members (24) with the plush affixed thereto for movement of the plush with the eye assembly (col. 1, lines 53-57, col. 2, lines 33-37, and col. 2, lines 44-46).

Getgey et al. do not disclose the spherical members having a concave surface and being transparent, and the pupil and iris inserted into the concave surface of the spherical member; the three-dimensional border member being an eyelid.

Eppley discloses an artificial eye having a transparent spherical member (clear thermoplastic material like polycarbonate) having a convex outer surface (82) and a concave surface (88); a pupil (the portion proximate reference part 98) and iris (the portion proximate reference part 98) are inserted into the concave surface (88) of the spherical member (80) (col. 7, lines 46-67 through col. 8, lines 1-28).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the spherical member as having a convex surface and a concave surface as taught by Eppley, since such a modification would allow an insert to be placed within the spherical member that may be hollow.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Wintriss.

Getgey et al., as modified by Eppley, lacks a rod interconnecting the spherical members; the rod being operable to effect coordinated movement of the spherical members; the rod being operable to effect independent movement of the spherical members.

Wintriss discloses an artificial eye assembly that is arranged for movement where one eye (1) or a pair of eyes (1) may move laterally along the axis of a shaft (2) or rotatably with respect to the shaft (2) (col. 1, lines 36-39).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a rod interconnecting a pair of eyes for movement of a single or a pair of eyes, since such a modification would simulate a real human or animal in terms of eye movement.

Allowable Subject Matter

Claims 12, and 14-16 are allowed.

Claims 4-7, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 10 August 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that Getgey et al. do not show a portion that is integral with the spherical portion of the eyes to engage the plush to effect movement. Examiner submits that plush engaging member (36) is integral with one or more spherical members (24) otherwise eye movement cannot be effected if the plush

engaging member (36) and the spherical (24) were separate and independent components.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM-2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene L. Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

umc



EUGENE KIM
SUPERVISORY PATENT EXAMINER